THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.11411 OF 2007

DATED: 08-06-2007

BETWEEN

Smt. Pramila Modi,
W/o. late Dr. C.L. Modi,
R/o.4-4-248, Sultan Bazar,
Hyderabad, Rep. by her
G.P.A Holder Surendra
Luniya, S/o. late Sri Raja
Indermal Luniya, R/o.4-4-248,
Sultan Bazar, Hyderabad.

…PETITIONER

AND

The Government of A.P. represented
By its Prl. Secretary, Home Department,
Secretariat, Hyderabad and others.

…RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to direct the respondent – police authorities to provide necessary protection to protect the immovable property owned by her bearing Municipal Nos.8-2-470,
8-2-470/1 to 470/5 in Sy.No.116/3 in T.S.Nbo.3/1/1/B & 4, Block K, Ward 89, to an extent of Ac.1.06 guntas situated at Khairatabad Village at Road No.1, Banjara Hills, Hyderabad.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Home appearing for the respondents.

3. It is the case of the petitioner that originally she purchased an extent of

Ac.3.27 guntas, which was identified as Sy.No.116/2 to an extent of Ac.2.21 guntas and Sy.No.116/3 to an extent of Ac1.06 guntas situated at Road No.1, Banjara Hills, Hyderabad. An extent of Ac.2.21 guntas in Sy.No.116/2 was sold to various purchasers and she retained an extent of Ac.1.06 guntas in Sy.No.116/3. The State of Andhra Pradesh filed a Land Grabbing Case against the petitioner and the purchasers, who are respondents 1 to 8, in L.G.C.No.10 of 2002 on the file of the Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 to declare that the Government is the absolute owner of the said total extent of Ac.3.27 guntas. In the said case the Special Court by order dated 30.07.2004 while rejecting the contentions of the Government held that the Government failed to prove that the schedule property belongs to it whereas the petitioner and her purchasers have proved that they are the owners and pattedars of the lands in Sy.Nos.116/2 and 116/3 in T.S.No.3/1/A and 3/1/B as mentioned in Exs.B12 and B3 respectively. It is further stated that the Government recgonised the title and interest of the petitioner herein in respect of the said land for more than 33 years prior to filing the LGC case.

4. It is further stated that thereafter the Government filed W.P.No.20537 of 2004 and the petitioner and others filed W.P.No.19552 of 2004 on the file of this Court. A Division Bench of this Court by order dated 26.04.2005 upheld the order of the Special Court holding that the petitioner herein has not at all grabbed any land of the Government and the she and her vendors cannot be characterized as land grabbers. It was further held that the State cannot be permitted to interfere with the peaceful possession and enjoyment of the land in question by the petitioners in whatsoever manner and the respondents therein were directed not to interfere with the peaceful possession and enjoyment of the land in question by the petitioners in any manner whatsoever. Aggrieved by the said order the State carried the matter in appeal to the Supreme Court in Civil Appeal No.4604 of 2006 and the Supreme Court by judgment dated 30.10.2006 dismissed the appeal holding

that the petitioner purchased an extent of Ac.3.27 guntas and the same was recognized and patta was granted by the Surfekhas authorities in favour of the petitioner by the former Nizam and his administration over an extent of Ac.2.21 guntas in Sy.No.116/2 and an extent of Ac.1.06 guntas in Sy.No.116/3. Sy.No.116/1 alone was treated as Government land but not Sy.Nos.116/2 and 116/3. The petitioner has been in possession and enjoyment of Ac.3.27 guntas and out of the said extent the petitioner alienated an extent of 11,200 sq. yards under registered sale deeds in favour of two persons namely, Dr. Roopkaran under Document No.170/1357 Fasli dated 1st Khurdad 1357 Fasli and to

Sri Basheruddin Ahmed Khan under Document No.2871/1357 Fasli, dated 2nd Amardad, 1357 Fasli, who subsequently sold to various persons from whom the respondents 2 – 8 purchased their respective plots. Thus, it is the case of the petitioner that her right, title and possession over an extent of Ac.1.06 guntas in Sy.No.116/3 was upheld by the Supreme Court, therefore, the very order of the Special Court upheld and confirmed by the Apex Court is binding on all the authorities, but some unsocial elements and land grabbers started interfering with her possession and enjoyment over the said land.

5. Learned counsel for the petitioner submits that the property under occupation and possession of the petitioner in Sy.No.116/3 in an extent of Ac.1.06 guntas is covered by the boundary wall and is having specific boundaries; on the east Road No.3, North – land sold in Sy.No.116/2, South – temple and West – grave yard.

6. Learned Government Pleader for Home, on instructions, submits that, in fact, the petitioner made a written representation on 24.05.2007 stating that some unknown persons have come to his site on 23.05.2007 at H.No.8-2-470, 8-2-470/1 to 470/5, Road No.1, Banjara Hills in Sy.No.116/3 and attempted to trespass into his land with evil intention to grab the property and

threatened his servant to vacate the land and used filthy and abusive language. Therefore, the police registered a case in Cr.No.458 of 2007 for the offence under Sections 447 and 506 of the Indian Penal Code, 1860 of Police Station Banjara Hills. It is further stated that the seventh respondent also made a complaint on 24.05.2007 stating that the land in Sy.Nos.115/3 and 115/2 of Khairatabad village belongs to Late. Rabia Begum and was succeeded by her three brothers and subsequently succeeded by their children. The seventh respondent – Syed Ali Hussain and other children of the brothers of Rabia Begum are in possession of the said land and the petitioner with anti social elements trespassed into the property on 21.05.2007 and threatened the workers of the pattedar's family and tried to send them away. Therefore, a case in Cr.No.457 of 2007 under Sections 447 and 506 IPC was registered by the Police Station, Banjara Hills. It is further stated that the property mentioned by the seventh respondent falls under Sy.Nos.115/2 and 115/3 whereas the same property as mentioned by the petitioner falls under Sy.No.116/3, therefore, a requisitions is made to Tahsildar, Khairatabad for furnishing the factual report.

7. There is no dispute, insofar as the title of the petitioner is concerned, as the right, title and possession of the petitioner has been upheld by the Supreme Court, therefore, the right of the petitioner has been crystallized without any doubt whatsoever. Thus, it is the duty of the police to protect the immovable property of the petitioner from all the concerned.

8. Having regard to the facts and circumstances of the case,
the respondents 3 to 6 are directed to provide necessary police protection to the petitioner to protect her property. However, if there is any dispute with regard to the boundaries, it is open for the respondents to take the assistance of the Tahsildar, Khairatabad keeping in view the order of the Special Court in L.G.C.No.10 of 2002, the orders of the High Court and the Supreme Court.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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V. ESWARAIAH, J

June 8, 2007
DSK